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Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Adv. Pro. No. 08-01789 (SMB)

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

SIPA LIQUIDATION

(Substantively Consolidated)

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-05027 (SMB)

Plaintiff,

v.

1776 K STREET ASSOCIATES LIMITED  
PARTNERSHIP, a Virginia limited partnership,  
BERNARD S. GEWIRZ, EDWARD H. KAPLAN,  
ESTATE OF ROBERT H. SMITH, ROBERT H.  
SMITH REVOCABLE TRUST, ELEVENTH  
AMENDMENT AND RESTATEMENT, AND

SUCCESSOR TRUSTS, Virginia trusts, CLARICE R. SMITH, as personal representative, as trustee, and as an individual, and ROBERT P. KOGOD, as personal representative,

Defendants.

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL OF ADVERSARY PROCEEDING WITH PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendants 1776 K Street Associates Limited Partnership, Bernard S. Gewirz, Edward H. Kaplan, Estate Of Robert H. Smith, Robert H. Smith Revocable Trust, Eleventh Amendment And Restatement, And Successor Trusts, Clarice R. Smith, as personal representative, as trustee, and as an individual, and Robert P. Kogod, as personal representative (“Defendants”), by and through their counsel, Arent Fox LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 2, 2010, the Trustee filed the Complaint against Defendants. Trustee filed an Amended Complaint on February 22, 2012.
2. On August 17, 2015, Defendants served an Answer to the Amended Complaint on the Trustee.
3. On October 31, 2016, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [ECF. No. 3181].
4. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal of the

Trustee's claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding with prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: November 10, 2016  
New York, New York

**BAKER & HOSTETLER LLP**

Of Counsel:

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Investment Securities LLC and for the Estate  
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*Attorneys for Defendants*

SO ORDERED

/s/ STUART M. BERNSTEIN  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

Dated: November 10<sup>th</sup>, 2016  
New York, New York